

Rule 11. Submission of Confidential Information**Rule 11.01 Definitions**

The following definitions apply for the purposes of this rule:

(a) "Restricted identifiers" shall mean the following numbers of a party or other person: complete or partial Social Security number, complete or partial employer identification number, and financial account numbers other than the last four numbers of a financial account number that is not also a Social Security number.

(b) "Financial source documents" means income tax returns, W-2 forms and schedules, wage stubs, credit card statements, financial institution statements, check registers, and other financial information deemed financial source documents by court order.

(Amended effective July 1, 2007; amended effective July 1, 2014.)

Rule 11.02 Restricted Identifiers

(a) Pleadings and Other Documents Submitted by a Party. No party shall submit restricted identifiers on any pleading or other document that is to be filed with the court except when the information is germane and necessary for the court's consideration of the issues then before the court. If it is necessary to provide restricted identifiers to the court, they must be submitted in either of the following two ways:

(1) on a separate form entitled Confidential Information Form (see Form 11.1 as published by the state court administrator) filed with the pleading or other document; or

(2) on Confidential Financial Source Documents under Rule 11.03.

The Confidential Information Form (Form 11.1) shall not be accessible to the public.

The parties are solely responsible for ensuring that restricted identifiers do not otherwise appear on the pleading or other document filed with the court. The court administrator will not review each pleading or document filed by a party for compliance with this rule. Notwithstanding this provision, the court administrator may take any action consistent with Rule 11.04.

(b) Records Generated by the Court. Restricted identifiers maintained by the court in its register of actions (i.e., activity summary or similar information that lists the title, origination, activities, proceedings and filings in each case), calendars, indexes, and judgment docket shall not be accessible to the public. Courts shall not include restricted identifiers on judgments, orders, decisions, and notices except on the Confidential Information Form (Form 11.1), which shall not be accessible to the public.

(c) Certification. Every filing shall constitute a certification by the filer that the documents filed contain no restricted identifiers, except as permitted in section (a) of this rule. For documents filed using the E-Filing System, this certification may additionally be provided by electronically acknowledging the certification statement in the manner designated by the E-Filing System.

(Added effective July 1, 2005; amended effective January 1, 2010; amended effective July 1, 2014; amended effective July 1, 2015.)

Rule 11.03 Confidential Financial Source Documents

(a) Cover Sheet Required. Financial source documents shall be submitted to the court under a cover sheet designated "Confidential Financial Source Documents" and substantially in the form set forth as Form 11.2 as published by the state court administrator. Financial source documents

submitted with the required cover sheet are not accessible to the public except to the extent that they are admitted into evidence in a testimonial hearing or trial or as provided in Rule 11.05 of these rules. The cover sheet or copy of it shall be accessible to the public.

(b) Closed Account Statements. Statements from a permanently closed (also known as "charged off") credit card or financial institution account that has been identified as a closed account in the related pleading or other filed document need not be submitted as a Confidential Financial Source Document under Rule 11.03 of these rules unless desired by the filing party or as directed by the court.

(c) Absence of Cover Sheet. Financial source documents that are not submitted with the required cover sheet are accessible to the public, but the court may, upon motion or on its own initiative, order that any such financial source document be confidential.

(Added effective July 1, 2005; amended effective July 1, 2007; amended effective January 1, 2010; amended effective July 1, 2014; amended effective July 1, 2015.)

Rule 11.04 Failure to Comply

If a party fails to comply with the requirements of this rule in regard to any person's restricted identifiers or financial source documents, the court may upon motion or its own initiative impose appropriate sanctions, including costs necessary to prepare an appropriate document for filing:

Upon discovery that a document containing restricted identifiers has not been submitted in a confidential manner as required by this rule, the court administrator shall file it with a temporary non-public status pending redaction or court order and direct the filer to, within 21 days, either:

(1) serve and file a properly redacted filing and pay any prescribed monetary fee to the court, and, if the party desires that the filing date of the resubmitted document(s) relates back to the filing date of the original document(s), serve and file a motion requesting the relation-back to the original filing date; or

(2) file a motion for relief from the court.

Any other party may oppose the motion seeking relation-back to the original filing date within the same time limits as are provided by law for the type of document(s) being filed. If a filer timely pays the monetary fee, and timely requests relation-back of the filing date, the court may order that the filing date of the properly submitted document(s) relate back to the filing date of the original document(s).

If no action is taken within 21 days after notice, the filing shall be stricken.

(Amended effective July 1, 2015.)

Rule 11.05 Procedure for Requesting Access to Confidential Financial Source Documents

(a) Motion. Any person may file a motion, supported by affidavit showing good cause, for access to Confidential Financial Source Documents or portions of the documents. Written notice of the motion to all parties is required.

(b) Waiver of Notice. If the person seeking access cannot locate a party to provide the notice required under this rule, after making a good faith reasonable effort to provide such notice as required by applicable court rules, an affidavit may be filed with the court setting forth the efforts to locate the party and requesting waiver of the notice provisions of this rule. The court may waive the notice requirements of this rule if the court finds that further good faith efforts to locate the party are unlikely to be successful.

(c) Balancing Test. The court shall allow access to Confidential Financial Source Documents, or relevant portions of the documents, if the court finds that the public interest in granting access or the personal interest of the person seeking access outweighs the privacy interests of the parties or dependent children. In granting access the court may impose conditions necessary to balance the interests consistent with this rule.

(Amended effective July 1, 2014; amended effective July 1, 2015.)

Rule 11.06 When Documents May Be Filed as Confidential or Under Seal

A party may submit a document for filing as a "confidential document" or "sealed document" only if one of these circumstances exists:

(a) The court has entered an order permitting the filing of the particular document or class of documents under seal or as confidential.

(b) This rule or any applicable court rule, court order, or statute expressly authorizes or requires filing under seal or as confidential.

(c) The party files a motion for leave to file under seal or as confidential not later than at the time of submission of the document.

The court may require a filing party to specify the authority for asserting that a filing is a "confidential document" or "sealed document." For purposes of this rule, the terms "confidential document" and "sealed document" shall have the meanings set forth in Rule 14.01. Additional requirements for electronically submitting a document as confidential or sealed in the E-Filing System are set forth in Rule 14.06.

(Added effective July 1, 2005; amended effective January 1, 2010; amended effective September 1, 2012; amended effective July 1, 2015.)

Advisory Committee Comment - 2005 Amendment

Rule 11 is a new rule, but is derived in part from former Rule 313. It is also based on WASH. GR 22 (2003). Under this rule, applicable in all court proceedings, parties are now responsible for protecting the privacy of restricted identifiers (social security numbers or employer identification numbers and financial account numbers) and financial source documents by submitting them with the proper forms. Failure to comply would result in the public having access to the restricted identifiers and financial source documents from the case file unless the party files a motion to seal them or the court acts on its own initiative under Rule 11.03. The Confidential Information Form from Rule 313 is retained, modified, and renumbered, and a new Sealed Financial Source Documents cover sheet has been added. The court retains authority to impose sanctions against parties who violate the rule in regard to another individual's restricted identifiers or financial source documents.

New in 2005 is the procedure for obtaining access to restricted identifiers and sealed financial source documents. This process requires the court to balance the competing interest involved. See, e.g., Minneapolis Star & Tribune Co. v. Schumacher, 392 N.W.2d 197 (Minn. 1986) (when party seeks to restrict access to settlement documents and transcripts of settlement hearings made part of civil court file by statute, court must balance interests favoring access, along with presumption in favor of access, against those asserted for restricting access).

Advisory Committee Comment - 2007 Amendment

The 2007 amendment to Rule 11.01(a) expands the rule to protect the restricted identifiers of all persons, not just a party and a party's child. Records submitted to the court may include restricted identifiers of persons other than a party or the party's child, such as clients or other fiduciaries.

The 2007 amendment to Rule 11.03 recognizes that if a sealed financial source document is formally offered and admitted into evidence in a testimonial hearing or trial the document will be accessible to the public to the extent that it has been admitted. This is the result under WASH. GR 22 (2006) upon which this rule is based. In such situations, it is strongly recommended that restricted identifiers be redacted from the document before its admission into evidence.

Advisory Committee Comment - 2009 Amendment

Rule 11 is amended to remove Forms 11.1 and 11.2 from the rules and to correct the reference to the forms in the rule. This amendment will allow for the maintenance and publication of the form by the state court administrator. The form, together with other court forms, can be found at <http://www.mncourts.gov/>.

Forms 11.1 and 11.2 should be deleted from the rules and maintained in the future on the court's Web site.

Advisory Committee Comment - 2012 Amendment

Rule 11.06 is a new rule intended to define the procedural prerequisites for filing of documents under seal. This rule is not intended to expand or limit the confidentiality concerns that might justify special treatment of any document. The rule is intended to make it clear that filing parties do not have a unilateral right to designate any filing as confidential, and that permission from the court is required. This permission may flow from a statute or rule explicitly requiring that a particular document or portion of a document be filed confidentially or from a court order that documents be filed under seal. Rule 112 of the Minnesota Rules of Civil Appellate Procedure contains useful guidance on how confidential information can be handled. Where documents contain both confidential and non-confidential information, it may be appropriate to file redacted "public" versions of documents filed under seal.

Advisory Committee Comment - 2015 Amendments

The amendments to Rule 11 are intended to advance the important interests in preventing the filing of confidential and sensitive information in publicly accessible court files. The amendment to Rule 11.02(a) reminds filers that the best way to prevent public access to sensitive personal information is not to file it with the court unless needed. If a Social Security number, financial institution record, home address, and any other information defined to be a restricted identifier under the rule is not required for the adjudication of a matter before the court, simply omitting it from the filing prevents any further risk of disclosure. If the information is necessary, then using the other procedures of Rule 11.02 is necessary. The consequences of failing to comply with the rule include sanctions against the filer, and if failure to follow the rule causes injury to any person, an action for damages may lie.

There are very few statutes that require the filing of restricted identifiers. They may be required in certain family child support cases, see Minnesota Statutes, sections 256.87, subdivision 1a; 257.66, subdivision 3; 518.10; 518A.56; and United States Code, title 42, section 666(a)(13), which currently require the court to identify the parties by Social Security number. Minnesota Statutes, section 548.101, requires the disclosure of the last four digits of a debtor's Social Security number, if known, in cases involving assigned consumer debt. Social Security numbers were required for filings to commence informal probate or appointment proceedings until 2006. See Minnesota Laws 2006, chapter 221, section 20, amending Minnesota Statutes, section 524.3-301.

Rule 11.02(c) is new and provides that filing constitutes certification that the document does not contain unauthorized restricted identifiers. For documents filed electronically, this certification may additionally be made explicitly by checking the appropriate box on a screen that will be

incorporated into the e-filing process. See also Rule 14.06. As is true for other rules, failure to follow the rule, or the making of a false certification, may warrant the imposition of sanctions as may be authorized by other rules or under the court's inherent power.

Rule 11.06 is intended to provide important guidance on when documents may be filed as confidential or under seal. The rule permits these filings in only three circumstances. As part of the implementation of this rule, filers should expect that the E-Filing System of the court will ask the filer to specify which basis for filing as confidential or under seal is being relied upon for that filing. If an order in the case, statute, or court rule does not expressly permit or require filing of the document under seal or as confidential, a motion must be brought to request approval of filing that document under seal or as confidential not later than the time of filing.

Rule 11.06 specifies the procedure used by a filer for filing under seal or as confidential. Additionally, the court can at any time treat a document containing restricted identifiers as confidential until the parties or court can ensure the document properly conforms to the requirements of Rule 11.